

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 2/28/2012	(3) CONTACT/PHONE Jo Manson, Planner III/ (805) 781-4660	
(4) SUBJECT Continued hearing to consider a request by Ana Torres de Alba for a curb, gutter and sidewalk waiver (DRC2011-00021) for a proposed project within the Residential Multi-Family land use category located at 1176 N Street, in the community of San Miguel.			
(5) RECOMMENDED ACTION Adopt and instruct the chairman to sign the resolution with findings therein, denying the waiver request and approving a modification of the requirement for curb, gutter and sidewalk improvements to allow for the deferment of the required improvements.			
(6) FUNDING SOURCE(S) Waiver Fee (\$813)	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <div style="display: flex; justify-content: space-between;"> { } Consent { } Presentation (Time Est. _____) <input checked="" type="checkbox"/> Hearing (Time Est. 15 minutes) { } Board Business </div>			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions { } Contracts { } Ordinances { } N/A		(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(14) W-9 <input checked="" type="checkbox"/> No { } Yes	
(15) LOCATION MAP Attached	(16) BUSINESS IMPACT STATEMENT? No	(17) AGENDA ITEM HISTORY { } N/A Date <u>01/24/12</u>	
(18) ADMINISTRATIVE OFFICE REVIEW			
(19) SUPERVISOR DISTRICT(S) District 1 -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Jo Manson, Planner III

DATE: 2/28/2012

SUBJECT: Continued hearing to consider a request by Ana Torres de Alba for a curb, gutter and sidewalk waiver (DRC2011-00021) for a proposed project within the Residential Multi-Family land use category located at 1176 N Street, in the community of San Miguel.

RECOMMENDATION

Adopt and instruct the chairman to sign the resolution with findings therein, denying the waiver request and approving a modification of the requirement for curb, gutter and sidewalk improvements to allow for the deferment of the required improvements.

DISCUSSION

Today's hearing is continued from the January 24, 2012 Board of Supervisor's hearing concerning the waiver request. At that meeting your Board directed Planning staff, Public Works staff and County Counsel to coordinate with the applicant and prepare an improvement deferral agreement whereby the applicant would still be required to provide the curb, gutter and sidewalk improvements but at a future date to be determined by the County. At today's meeting, your Board will hold a continued public hearing on the curb, gutter and sidewalk waiver recommended for denial and modify the requirement for curb, gutter and sidewalk improvements to allow for the deferment of said improvements, and take final action through adoption of a resolution.

Project Description and Background

In September 2011 the applicant requested information from the Department of Planning and Building regarding the requirements for moving a modular/mobile home single family residence onto her property at 1176 N Street in San Miguel in the Residential Multi-Family land use category. There is one existing single family residence on the property. The applicant was informed that curb, gutter and sidewalk improvements fronting the site would be required as part of a future construction permit application for the second residence based on Land Use Ordinance Sections 22.54.030 and 22.104.070, and the San Miguel Community Design Plan.

The applicant requested a curb, gutter and sidewalk waiver in anticipation of submitting a construction permit application to move a modular/mobile home onto the project site at a later date. The applicant specified that the basis for the waiver request was incompatible development (i.e., the curb, gutter and sidewalk are incompatible with the land uses in the vicinity as well as with existing and projected needs for drainage and traffic control), and premature development (the rest of the area doesn't have curbs, gutters and sidewalks and because the project is an interim use of the site, the required improvements can be obtained with further or intensified development later).

Section 22.54.030 of the Land Use Ordinance requires curb, gutter and sidewalk to be installed for properties within the Residential Multi-Family land use category within an Urban Reserve Line when new construction exceeds 25 percent of the total value of all improvements on the site or when a new structure is moved on to a site. The applicant is proposing to move a new residential structure onto the project site.

In addition, Section 22.104.070 of the Land Use Ordinance for the San Miguel Urban Area sets forth standards for all proposed development to be in conformity with the San Miguel Design Plan. The San Miguel Community Design Plan was adopted by the San Luis Obispo County Board of Supervisors on April 8, 2003. Section E. 5., Guidelines and Standards for Projects Located in the Residential Multi-Family (RMF) Land Use Category, Subsection 5.1 **Site Design**, Item e. **Sidewalks**, states that "(Standard) Curbs, gutters and sidewalks are required for all new development in the Residential Multi-Family land use district."

Requests for exceptions involving a waiver or modification of the requirements for curb, gutter and sidewalks are allowed by Section 22.54.030(D) of the Land Use Ordinance and may be granted at the staff level if the site meets any or all of the following criteria: incompatible grade, incompatible development, or premature development.

Staff Analysis

After comparing the characteristics of the site with the waiver guidelines specified in Section 22.54.030.D of the County Code, staff has determined that the waiver request should not be approved and is recommending that your Board deny the waiver request. Staff found that the development of the required street frontage improvements would be compatible and or timely based on the following characteristics of the site and vicinity:

1. Incompatible Grade: The County Engineer has determined that the finish grades of the project site and adjoining street are compatible for accommodating the proposed improvements.
2. Incompatible development (drainage and traffic control): The County Engineer and the Director of Planning and Building have determined that the curb, gutter and sidewalk improvements would be compatible with development because they conform to the recommendations outlined in the San Miguel Design Plan.
3. Premature development (bond for future construction): The applicant proposes to increase the residential density by adding a second single family residence. The existing single family residence, with accessory structures, and the proposed second residence, fully utilizes the 11,250 square foot property (see attached site plan provided by the applicant). The adjacent properties on either side of the subject property do not have curb, gutter and sidewalk improvements. However, a five (5) unit apartment complex located at the end of the block at 505 11th Street (APN: 021-291-005), was required to provide curb, gutter and sidewalk improvements and was completed on August 14, 2008 (PMT2005-03658). Therefore, neither the County Engineer nor the Director of Planning and Building support the waiver based on premature development pursuant to Section 22.54.030.D.3.

Board Modification

Pursuant to Section 22.54.030.D.4 of the County Code, "Board modification", the requirement for curb, gutter and/or sidewalk improvement requirements may be waived, modified or delayed through approval of such by the Board where it has been determined by the County Engineer and the Director of Planning and Building that a waiver cannot otherwise be granted through the exceptions defined in Sections 22.54.030.D 1 through D.3, and the Board finds that special circumstances exist including but not limited to, an unusual landscape feature, a specific valuation inequity or a property specific circumstance that would make construction of the required improvements ineffectual.

The County Engineer and the Director of Planning and Building have determined that a waiver cannot otherwise be granted through the exceptions as defined in Sections 22.54.030.D 1 through D.3. At your January 24, 2012 meeting, your Board directed Planning Staff, Public Works staff and County Counsel to coordinate with the applicant and prepare an improvement deferral agreement whereby the applicant would still be required to provide the curb, gutter and sidewalk improvements but at a future date to be determined by the County. Your Board determined that deferral of the required improvements would not be detrimental to the health, safety and welfare of the general community.

OTHER AGENCY INVOLVEMENT/IMPACT

Referrals were sent out to interested agencies including the Public Works Department, Air Pollution Control Board, San Miguel Community Services District, San Miguel fire, Cal Trans, Regional Water Quality Control Board, and the San Miguel Advisory Council. We received two (2) referral responses. Both the Public Works Department and the San Miguel Advisory Council recommended denial of the waiver request (see attached referral responses).

FINANCIAL CONSIDERATIONS

The required waiver fee was paid by the applicant.

RESULTS

Adopting the resolution denying the waiver request and approving a modification of the requirement for curb, gutter and sidewalk improvements would require the applicant to enter into an improvement deferral agreement with the County to provide curb, sidewalk and gutter improvements at a future date to be determined by the County. Modification of the requirement for construction of curb, gutter and sidewalk improvements is consistent with the County's goals of providing a safe and livable community.

ATTACHMENTS

1. Board of Supervisors Resolution
2. Referral Responses
3. Vicinity Map
4. Land Use Category Map
5. Aerial Photo
6. Assessor Parcel Map
7. Proposed Site Plan